

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MELISSA GARZA,)	
individually and on behalf of all others)	
similarly situated,)	
)	No. 1:22-cv-03098
Plaintiff,)	
)	Honorable Matthew F. Kennelly
v.)	
)	
GERBER PRODUCTS COMPANY,)	
)	
Defendant.)	

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
GERBER PRODUCTS COMPANY'S MOTION TO DISMISS**

WHITE & CASE LLP

Matthew R. Devine
111 South Wacker Drive, Suite 5100
Chicago, IL 60606
Tel: (312) 881-5400
Fax: (312) 881-5450
matthew.devine@whitecase.com

Bryan A. Merryman (admitted *pro hac vice*)
555 South Flower Street, Suite 2700
Los Angeles, CA 90071
Tel: (213) 620-7700
Fax: (213) 452-2329
bmerryman@whitecase.com

*Counsel for Defendant
Gerber Products Company*

Defendant Gerber Products Company (“Gerber”) submits this notice of supplemental authority to bring to the Court’s attention a recent decision that is relevant to the grounds in support of Gerber’s pending motion to dismiss (ECF No. 15). On February 16, 2023, the Honorable Philip M. Halpern, Judge of the United States District Court for the Southern District of New York, dismissed with prejudice a complaint, filed by Plaintiff’s counsel here, with allegations materially similar to the allegations in the Amended Complaint in this case. A copy of Judge Halpern’s order, *Martelli v. Rite Aid Corp.*, No. 7:21-10079, ECF No. 19, 2023 WL 2058620 (S.D.N.Y. Feb. 16, 2023), is attached to this notice as **Exhibit 1**.

Gerber respectfully submits that the Amended Complaint here suffers from similar defects and requests that the Court consider the *Martelli* order as supplemental authority.

Dated: February 21, 2023

Respectfully submitted,

WHITE & CASE LLP

/s/ Matthew R. Devine

Matthew R. Devine
111 South Wacker Drive, Suite 5100
Chicago, IL 60606
Tel: (312) 881-5400
Fax: (312) 881-5450
matthew.devine@whitecase.com

Bryan A. Merryman (admitted *pro hac vice*)
555 South Flower Street, Suite 2700
Los Angeles, CA 90071
Tel: (213) 620-7700
Fax: (213) 452-2329
bmerryman@whitecase.com

*Counsel for Defendant
Gerber Products Company*

CERTIFICATE OF SERVICE

I, Matthew R. Devine, hereby certify that, on February 21, 2023, a copy of the foregoing was served by CM/ECF on all counsel of record.

/s/ *Matthew R. Devine*
Matthew R. Devine